SUPREME COURT OF THE UNITED STATES
October Term, 1956
No.---

PETITION FOR WRIT OF CERTIORARI
Tax Docket Nos. 40910, 53127.

To The

UNITED STATES COURT OF APPEALS
For the Eighth Circuit

No. 15469.

Before Judges Sandborn, Vogel and Johnson.

Reviewing Decisions of the Tax Court of the U. S. dated May 19, 1955. Record filed December 27, 1955, for 1946-50

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Miss Anne M. Evans, Petitioner-Appellant.

vs.

COMMISSIONER OF INTERNAL REVENUE,
The Hon. T. Coleman Andrews, (now resigned) Incumbent, Respondent.

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## JURISDICTIONAL STATEMENT

Under 28 U. S. C. 1254 (1), Congress has provided the Supreme Court may review cases in the Court of Appeals And where the case is heard by 3 judges, the final judgment is also appealable under 28 U. S. C. 1253, and under 28 U. S. C. 2281-2282, the 3 judge District Courts are required to hear suits to restrain state and federal statutes on the ground of unconstitutionality. Failure of the Tax Court and the U. S. Court of Appeals, to pass on constitutional objections timely raised by motion is, in itself a denial of the due process clause of the XIV Amendment of the Constitution of the United States.

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Comes now Petitioner in above entitled Cause, and files her petition to grant a Writ of Certiorari, to review the Opinion of the United States Court of Appeals

for the Eighth Circuit, dated July 16, 1956, and reverse it with a view (1) To require the Bureau of Internal Revenue to return the enforced payment of $4,198.16 which they required to be over-paid Sept. 23, 1955, after the Treasury Dept had refunded $616.00 which petitioner had over-paid to the Treaury Dept. Internal Revenue, as shown by U. S. Treasury check 18,492,861. D. O. Voucher 66,573 in favor of Anne M. Evans, dated March 15, 1951, and a compromise settlement had also been made with agent M. Griswald (Tr. 145; R. 61) for 1949 tax; and with a view (2) To affirming petitioner's contentions, now publicly admitted, over Television, by Respondent, T. Coleman Andrews, that the methods used by the Internal Revenue Bureau of the U. S. Treasury Department were improper and wrong, and unconstitutional. 'Confiscation' was the word used. In this case it was demanded that evidence over a period of thirty years be produced, or false and detrimental statements of revenue officers be accepted as true without being under oath, while refusing to affirm or pass upon the constitutional questions and objections filed in petitioners motions, the first one filed Nov. 20, 1953 (Tr. 64; R. 13), by Judge Arundel, never affirmed or denied, but petitioner required to proceed, clearly a violation of the XIV Amendment of the U. S. Constitution, and also Art. 1, Section 30, of the Constitution of Missouri. It cannot be maintained, that a Federal Bureau has any right to come into the State of Missouri and secure judgments in its favor by violating both the State and Federal Constitutions.

Supreme Court Rule 23,
1. (a)

The decision of the Tax Court of the U.S. was dated July 28, 1955 by Judge Elmer Johnson, Division 10, docket numbers 40910, and 53127. An Order dated Sept. 26, 1955 was entered extending the time to Nov. 17, 1955 for filing the Record and docketing the appeal. An Order enlarging the time was filed Oct. 10. 1955 (R. 68) The Record was filed, Dec. 27, 1955. (Tr. 603).

Reported in Commerce Clearing House Memorandum Decisions, 14 T. C. M. December 21016 (M) Tr. 553 Record 36.

1. (a)(i) and (ii)

The Petition on Review and assignment of Errors was

filed for both cases in the United States Court of Appeals for the 8th Circuit on Aug. 19, 1955 (R. 59). The Order of the U.S. Circuit Court of Appeals for the 8th Ct. denying appellant's Petition for Review was entered on July 19, 1956, and an Order staying Mandate for 30 days from Aug. 3, 1956, was filed on Aug. 3, 1956, and another Order was issued continuing the stay of the mandate to Sept 12. 1956 for filing the petition for the Writ, and if filed to extend it until passed on by the U.S. Supreme Court.

1(a)(iii)

The statutory provisions confering jurisdiction as set out in Rules of the Supreme Court of the U.S. Part V, Sec 19, are a matter of 'sound judicial discretion'; and the inherent right of the people to life, liberty and the pursuit of happiness; and the Preamble of our Constitution upon which it is based, and the fundamental recognition of the right of a citizen to a hearing for a redress of grievances from the fraudulent practices of public Officials. Fraudulent facts involved will be given under the next heading.

1 (b)

1. Perjury by a City Attorney who denied he knew the source of petitioner's title, when it is a matter of recorded documents that it was acquired by her by purchase at a sale instituted by the City of St. Louis
2. False statements by the former city counselor in effecting titles, offered and used to transfer property not properly described or giving the name of the actual owner of record; thus transferring and confiscating titles of record, to other parties; sustained by Civil Courts authorized and organized to adjudicate these matters;
3. The issuance of deficiency letters by a former City Attorney, who, while head of the local income tax Department, issued deficiency letters 35 months after the U.S. Treas. Dept. had returned, for over-payment of income tax, a check for $616.00; and disregarding a former compromise;
4. A former City Counselor, now Head of a Multi-million dollar Housing project, denying he knew the source of her title, although recorded documents show petitioner acquired it, at a public sale authorized by the City of St. Louis, while he was City Counselor; and

accepting deeds which show on their face that they were not transferring her title, had her fifteen family apartment house torn down, without notice or payment of any money to petitioner, used them as security to raise one hundred and eighty-five thousand dollars from the sale of tax-free housing bonds, while petitioner was the title owner of record, , and the title to the property was still in question and in litigation;

5. And after paying $300.00 for filing 3 writs of Certiorari the past year, which were denied, being Supreme Ct. Cause No. 641, October Term 1955, and Supreme Court Cause No. 641, Oct Term 1955, including Nos. 44,701 and 44807 on titles from Prante and Buente to the City of St. Louis to convey the title of Evans, the Record owner, and the said U.S. Supreme Court Cause No. 641, being the injunction desired until the City's deeds from Prante were declared , adequate to pass Evans' title by sheriff's deed from the City of St. Louis to the St. Louis Housing Authority; and

6. Now appellant pays another $100.00 (and has passed 70 years the age of forced retirement for teachers) that she might be heard by the Supreme Court of this land, in a suit against a Commissioner of Internal Revenue, who saw fit to resign while her suit was still pending, and explain publicly on Television, that the practices carried on by the Income Tax Department of which he was Commissioner were improper and wrong, the reason for his resignation

It is believed that granting a hearing on this Petition for a Writ of Certiorari under these circumstances , would be within the province of sound judicial discretion and the requirements of the Constitution of the United States, and the protection of the civil rights of the citizens of the United States, and this citizen in particular against fraudulent and negligent Government officials.

Rule 21 (c)

QUESTIONS PRESENTED FOR REVIEW.

1. When a tax case is tried under the five year statute of limitations, assessing a negligence penalty, is the Government required to carry the burden of proof (R30) And when the Government introduces only one witness and he testifies (R 31) he had nothing to do with the efficiency letters, is the Government entitled to a judgment

in their favor?

2. When the facts upon which the 5 year statute of limitations is permitted, are based on estimates and unsworn statements of a Government official, as shown in the total rent receipts sustained in the Opinion on (R. 40, note 2) hereinafter determined in Issue VI, and the gross income (note 3) hereinafter determined in issue II, who made no sworn statement as to the facts involved nor as to a previous mailing date or moneys received, it is clear the Court did not respect the Constitutional Amendments IV, requiring that statements be supported by oath or affirmation, or Amendment VI, the right to be confronted by witnesses against her. By so doing, should they be entitled to a judgment in their favor? (Question raised Nov. 20, 1953 in petitioner's Motion For Judgment for Petitioner R. 13, Original 64. No action was taken on it at any time.)

3. When the United States Court of Appeals finds that the decision of the Tax Court was not 'clearly erroneous' (this implies petitioner may have been essentially correct) Is this sufficient for a finding against the petitioner, 'if the Court saw fit', or must this negligence be proved, and without a reasonable doubt?

4. When the Record shows after a period of 5 years a refund of $616.00 for over-payment of Federal Income Taxes on March 15, 1951 to petitioner, apparently putting the Government stamp of approval on petitioners business, business deductions and records, was the government negligent in its duty to the citizen in failing to make a timely obhection, and so misleading the citizen in her efforts to carry on her various forms of business as nearly as possible, in the method desired by the Federal Government waiting until Feb. 26, 1952 to send a deficiency letter, and collecting an additional amount of $4,108.16 on Sept. 23, 1955 for these 5 years, claiming her business was only a hobby, refusing to allow the deductions for money actually expended in their development which they had formerly allowed, making their rulings retroactive for a period of six years, when petitioner could not live those years over again, under Income Tax Bureau rulings substantially violating Art. 1, Sec. 9

of the U. S. Constitution which requires that no ex post facto laws shall be passed? (Question raised on pages 30 and 66 of the printed Record.)

5. When Congress can pass no ex post facto laws, can a Bureau created by it issue rules which do so, and ignore other provisions of the U. S. Constitution?

6. Did the Court decide this case contrary to the ruling in the case of Helvering v. Taylor, 293 U. S. 507?

7. On page 37 of Respondent's Exhibit B, where it is reserved for collector's use only, has been entered $20.00 due, which was paid. The assessment of $296.06 and interest of $14.80 was entered over appellant's name subsequently but she was never notified of it, and Mr. Griswald testified he had never sent her any deficiency letters. When the Record shows a compromise was made and paid is it not binding on the Government as well as on the petitioner?

8. Are the 15 items set out in the Record as the Assignment of Errors to be entirely disregarded? See pages 59 to 67 of the Record.

9. When Respondent Commissioner T. Coleman Andrews has publicly admitted that the methods used in his department were arbitrary and wrong can the Court give a judgment in favor of the Commissioner under the circumstances?

10. When the City of St. Louis has ruthlessly torn down buildings at Ninth and Rutger at 18th and Papin, and at the Darst Housing project while she was owner of Record without paying her a cent of money and for which she was advised she could not take deductions on her income tax returns because the matter was in litigation which would cost thousands of dollars to rebuild. Is there any justice in charging her with an additional income on which an additional $4108.16 was required to be paid?

## THE CONSTITUTIONAL PROVISIONS INVOLVED

1. The IV Amendment to the Constitution of the U. S. The proceedings to be on oath or affirmation. The quest-

ion was raised in the Petition, Record 8, and in the motion for Judgment for the Petitioner, Record 13. This motion was never ruled on. It was raised again in the Petitioner's Assignment of Errors, Record 66.

2. The V Amendment to the Constitution of the United States. A person may not be required to testify against himself. Page 14, line 14 of the Record; No ruling of the Court on this; Also Pages 32 and 66 of the Record.

3. The VI Amendment to the Constitution of the United States. The right to be confronted by the witnesses against her Pages 8, 13 and 32 of the Record. The Motion was never ruled on. The question was raised again in the Assignment of Errors, page 66 of the Record.

4 The XIV Amendment of the Constitution was violated when petitioner was denied a ruling on these constitutional questions, and so a denial of the right of due process of law.

5. Article 1 Sec. 15 of the Missouri Constitution which requires oath or affirmation. Record 8.

6. Article 1 Sec. 10 of the Constitution of the United States, which requires that no ex-post facto laws shall be passed. This was raised as shown on page 14 of the Record, and never ruled on; and on pages 30 and 66 of the Record.

7. Revenue Laws of 1946 and 1947 Rev. Act 1928 par 111 (a)(d), 112 (b)(3) 113.(d)(y), 45 Stat 815-19. Exchange of business property permitted.

8 Revenue Laws Sec. 7121 (b)(1) Relating to compromise settlement which 'shall not be re-opened,--or the agreement modified by any officer, employee or agent of the United States.

Rule 21 (e)

## FACTS MATERIAL TO THE CONSIDERATION OF THE QUESTIONS PRESENTED

Petitioner held a full time position teaching Mathematics and commercial law in the High School, her main source of income, from which her income tax was taken before she received her pay check. She practiced law after her admission to the Bar in 1913. She wrote and published popular songs, and her pupils sung them for records after school, which she prepared. This led her to take a course in electronics. She bought old build-

ings and repaired them, including property bought at executions for City benefit bills of ten years standing where judgments had been rendered the City to collect this money by seizing the property, and having the sheriff sell it under execution. Petitioner holds sheriff's deeds; in no instance did she have any interest in the property beforehand. She was engaged in these activities for profit and consulted with income tax agents as to the methods of making her tax returns. Her cash income came from her salary from which her income tax was taken at the source. She received some rentals which were entirely absorbed by repairs, and necessary improvements. The rent control law froze the rent at such a low price, it did not cover the cost, but men needed work and housing, and petitioner was was interested in furnishing it.

Wages went up, but rents remained too low, and the burden of handling it became unbearable. It had to be sold at what it would bring, when the owner was unable to give possession. The cost of upkeep and repair ate into the amount which otherwise would go for taxes. The property bought at the execution of the judgments for city benefits required much expenditure of money. They were in an unlivable condition. Petitioner filed her sheriff's deeds and assumed responsibility for putting them in a safe condition and paying the city taxes. She re-roofed re-decorated, and rented the rooms. It was so arranged that her name was not put on the Plat Books as provided for by the state statutes, so that petitioner did not receive the notices resulting therefrom, and Collector's deeds bore the name of former owners whose interest the City had seized and sold to petitioner, the owner of record. The City's name was entered on the Plat books after five years and marked 'tax exempt'; seized the rents, and without notice began tearing down large buildings of brick, which petitioner had put in a safe condition for rental.

The Writs of Certiorari applied for, were all concerned with the taking of appellant's property on these Collector's Deeds after the City had seized all the right, title and interest of the former owner and sold it by execution to appellant, the present owner of record. Any one of the houses which the city tore down fraudulently, would have cost ten or fifteen thousand dollars to rebuild, which is

a loss of many times the amount of income which the Govt. agents claimed had not been reported as profits. but there were no profits from which to deduct these losses, and legal means still existed for securing damages for this unnecessary vandalism, and suit for damages was on file. Petitioner continued to spend her own salary believing that there would be a return or profit, but did not count on the fraudulent government officials. She had her Records and at the trial dictated for three days receipts for deductable expenses, until Judge Johnson said sufficient had been given. Relying on his apparent finding in my favor I stopped giving further evidence; but the Government tax agent then refused to allow these expenditures as deductable (Appellant's Exhibit 50, on Page 34 of the Record , giving 31 sheets of expenditures.) claiming petitioner to be engaged in hobbies, not business. The Courts have been dismissing the quiet title suits, while not directly stating that these Collector's deeds from former owners were valid to transfer title to the property recorded in petitioner's name.

An appeal which has been pending before the tax commission of Missouri has recently been returned, claiming no jurisdiction. It is only recently I could prove a perjury, by a City attorney, who swore he had no knowledge of the source of petitioner's title when it was alleged and the record showed it came through an execution in favor of the City. After twenty years all this property has increased greatly in value, for the land alone, in addition to the value of the brick buildings the City had torn down. Mr. Donald Gunn, formerly a city attorney, took charge of the Federal Income Tax in St. Louis, and issued the deficiency letters to appellant. Mr. James Crowe present head attorney for the St. Louis Housing Authority, who filed a false statement in the Brussel case No. 45724 St. Louis Ct. Court, and it was sworn to by his (negro) deputy, that he did not know the source of plaintiff's title although the property was bought at an execution sale authorized by him, and it had been so alleged in the Petition. By the improper use of the Internal Revenue Bureau , and sending me these deficiency letters, is all a part of the fraudulent schemes of these Government officials. The Comptroller himself committed suicide. They have denied me the use of

of my property while requiring me to expend the money to put it in a safe condition, and tried to make it appear , that I avoided paying both my city and federal taxes.

Appellant has more than fifty songs for marketing, but legal papers to be filed have prevented me from further work there. The law required that I give up teaching at 70 years of age; without some protection from the United States Supreme Court, in enforcing the civil rights which I am entitled to, under the Constitution of the United States, I no longer have much opportunity to enjoy 'Life Liberty, or the pursuit of Happiness'.

The Government failed to carry the burden of proof of their claim that petitioner did not report 25% of her income, so as to fall under the 5 year statute of limitations. They made statements which were untrue and unsworn to, and the only agent whose initials L.K. were on all of the deficiency letters, was not allowed to testify or be cross-questioned, yet his statements and estimates were accepted as true.

The U.S. Supreme Court of Appeals did not find that petitioner was negligent beyond a reasonable doubt. Since their Opinion shows that there is a doubt, it should be resolved in favor of the taxpayer.

Rule 21 (g)

Review of the Judgment of the U.S. Court of Aopeals Eighth Circuit.

Petitioner's Motion to strike Commissioner's 90 Day Deficiency Letter as being arbitrary and wrong, and the determination invalid should have been sustained under the case of Helvering v. Taylor 293 U.S. 507. (R. 9).

On Nov. 30, 1953, Motion for Judgment for the Petitioner was filed claiming protection under the 3 year statute of limitation in Cause 40910 (R. 13); and that the deficiency letter failed to show on the report of income tax audit changes for the year, either the signature, title or date, of the examining agent, or of the agent approving same, thus depriving petitioner of her right under the VI Amendment of the U.S. Con. to be confronted by the witnesses against her, and have process for securing witnesses in her favor; That it is a violation of the IV Amendment of the U.S. Con. and Art. I Sec 4 and Sec. 10, giving the purposes of Government in Mo. and

guaranteeing the right that these charges be supported by oath or affirmation.

A compromise paid in 1950 on Review of 1949 tax report of $28.00 has been reopened in violation of Federal statute Sec. 7121 (b)(1) which provides that it shall not be reopened by any U. S. Agent.

That it is a violation of the U. S. Con. Art. 1 Sec 10, which requires that no ex-post facto laws shall be passed Question raised R. 30 and 66;

That it is a violation of the V amendment demanding that the petitioner testify against herself. When she did give the truth to agent Griswold in writing that she had an unreported loss of over $8,000.00 (R. 31) she was mis-quoted as a gain.

That there was no ruling on the Motion heard Nov. 30, 53 (R. 14) raising the constitutional question, but the case was continued;

That the deficiency letter was signed by T. Coleman Andrews, Commissioner (R. 26) who has publicly repudiated the methods used, and of which petitioner complains, as being improper and wrong, and therefore resigned,

WHEREFORE petitioner moves that the $4,108.16 unjustly collected from her be returned, with interest, and judgment be rendered petitioner in view of the public admission, and resignation of Respondent, Commissioner Andrews of the U. S. Internal Revenue Bureau of the Treasury Department and Writ of Certiorari be granted in case any further discussion or argument seems desireable.

Respectfully submitted,
Anne M. Evans.

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Attorney pro se.
913 N. Twelfth Blvd.,
Saint Louis, 1, Mo. Ce. 1-1859

For The Eighth Circuit

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No. 15,469.

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| Anne M. Evans, Petitioner, vs. Commissioner of Internal Revenue Respondent. | } | Petition to Review Decision of the Tax Court of the United States. |

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July 16, 1956.

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Anne M. Evans, pro se, for Petitioner.

Louise Foster, Attorney, Department of Justice (Charles K. Rice, Acting Asst. Attorney General, and Lee A. Jackson and Robert N. Anderson, Attorneys, Department of Justice with her on the brief), for Respondent.

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Before Sanborn, Johnson and Vogel, Circuit Judges.

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Per Curiam.

The Commissioner of Internal Revenue assessed income-tax deficiences against petitioner for the years 1946 to 1950 inclusive, and the Tax Court upheld the deficiencies. On consideration of the evidence in the record, the contentions of petitioner's brief, and the argument made before us, we can find no basis to declare any part of the Tax Court's decision to be clearly erroneous. This includes the addition made, under par. 273 (a) of the Internal Revenue Code of 1939, 26 U.S.C.A., 'as if it were a deficiency', of 5%, for negligence. With whatever good faith petitioner may have acted, she nevertheless allowed such looseness and carelessness to exist in relation to the making of her tax returns as the Tax Court on the record before it properly could regard, if it saw fit, as amounting to negligence in tax duty, within the object of the statute. It would serve no useful purpose in the situation for us to repeat what the Tax Court has warrantedly and adequately said.

Affirmed.

A true copy.

Attest:

Clerk, U.S. Court of Appeals, Eighth Circuit.

( Judgement )

UNITED STATES COURT OF APPEALS
FOR THE
EIGHTH CIRCUIT

No.15469---- September Term,1955..
Monday,July 16,1956.

Anne M.Evans, Petitioner
vs.
Commissioner of Internal Revenue.

On Petition to Review Decisions of the Tax Court of the United States.

This cause came on to be heard on the petition to review the decisions of the Tax Court of the Tax Court of the United States entered July 28,1955, determining that there are deficiencies in the income taxes of the petitioner for the years 1946 to 1950,inclusive,and was argued by counsel.

On Consideration Whereof,It is now here Ordered and adjudged by this Court that the decisions of the Tax Court in this cause be,and the same are hereby, affirmed.

And it is further Ordered by this Court that the said petition to review in this cause be,and the same is hereby,dismissed.

July 16,1956.

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